

**REMARKS**

Applicant respectfully requests reconsideration of the present application in view of the reasons which follow.

- I. In Response to the Request for Information Under 37 C.F.R. § 1.105, the first sale anywhere in the world for the claimed plant variety, 'P000603', was November 20, 2002. Applicant is submitting concurrently herewith a copy of the Community Plant Variety Office's (CPVO) Certificate on the Grant of Community Rights for Plant Application No. 2002/00379 filed November 3, 2002.
- II. The claimed plant variety, 'P000603', was not sold or made publicly available for more than one year prior to the November 20, 2003, filing date of this application; therefore, no 102(b) rejection should be applied.
- III. The Examiner objects to the disclosure under 37 CFR § 1.163(a) and rejects the claim under 35 U.S.C. 112, first and second paragraphs, as being unsupported by a clear and complete botanical description which distinguishes the cultivar from related known varieties. Favorable reconsideration and allowance of the application is requested in view of the foregoing amendments and the remarks which follow.

In order to expedite the Examiner's review of this response, Applicant will address each of the Examiner's objections in the order they were discussed in the Official Action.

A. The specification has been amended at page 1, lines 16-23, and at page 4, lines 3-4, to delete the reference to the female parent as "*Plectranthus saccatus*" and to replace the reference with "*Plectranthus hybrid*".

B. The specification has been amended at page 2, lines 4-10, to provide a description of the location where 'P000603' has been asexually reproduced.

C. The specification has been amended at page 5, line 6, and at page 6, line 7, to insert the missing degree symbol, “°”.

D. The specification has been amended at page 5, line 11, to clarify the inflorescence height measurement of ‘P000603’.

E. The specification has been amended at page 5, lines 11-12, to clarify the length measurement of the flower and floral tube of ‘P000603’.

F. The specification has been amended at page 5, line 13, to amend the diameter measurement of the floral tube of ‘P000603’.

G. The specification has been amended at page 5, to insert at line 24, a description for both the pedicles and peduncles of ‘P000603’, including length and diameter measurements, surface texture description, and RHS color designation.

H. The specification has been amended at page 6, lines 1-2, to provide the length measurement of the stamens and anthers of ‘P000603’.

The specification has further been amended at page 6, to insert at line 3, a description for the filaments of ‘P000603’, including length measurement and RHS color designation.

I&J. The specification has been amended at page 6, lines 5-6, to delete the recitation “5 seeds in capsule; color of immature seeds: RHS 150B light yellow green”, as such description was included in the specification in error.

The specification has further been amended at page 6, line 7, to clarify that no seeds are produced by ‘P000603’.

The variety denomination as changed to 'P000306' in the Amendment filed June 21, 2004, was a typographical error. As a result, the specification has been amended at page 1, line 6, to amend the variety denomination of the plant from 'P000306' to 'P000603'. Further, the specification has been amended throughout to replace all occurrences of 'P000306' with 'P000603'.

In addition, the specification has been amended to change the title of the instant plant from 'P000306' to --'P000603'--.

Due to the number of changes and/or corrections, Applicant hereby files a Substitute Specification containing no new matter. The Examiner is authorized to cancel the specification as filed in favor of the attached substitute specification.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should an improper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Amendment and Request for Reconsideration  
U.S. Appln. No. 10/716,659

Atty. Dkt. No. 034896-0109

Respectfully submitted,

Date

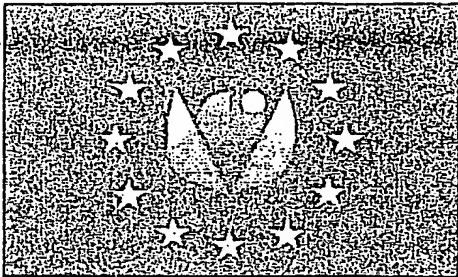
December 27, 2004

By

Richard C. Peet

FOLEY & LARDNER LLP  
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Facsimile: (202) 672-5399

Richard C. Peet  
Attorney for Applicant  
Registration No. 35,792



## CERTIFICATE ON THE GRANT OF COMMUNITY PLANT VARIETY RIGHTS

THE COMMUNITY PLANT VARIETY OFFICE HEREBY ACKNOWLEDGES THE GRANT OF COMMUNITY PLANT VARIETY RIGHT BY ITS DECISION N° EU 14309 OF 22 NOVEMBER 2004 TAKEN IN ACCORDANCE WITH COUNCIL REGULATION (EC) N° 2100/94 ON COMMUNITY PLANT VARIETY RIGHTS, WITH EFFECT FROM THE DATE OF THE DECISION REFERRED TO ABOVE, FOR

BRITS GERT JOHANNES  
28 FLAMINGO STREET  
ZA - STELLENBOSCH 7600

AS HOLDER OF THIS RIGHT,

REPRESENTED BY

GPL INTERNATIONAL AS

BEING DOMICILED OR HAVING HIS SEAT OR ESTABLISHMENT IN

LAVSENVÆNGET 18  
DK - 5200 ODENSE V

IN RESPECT OF THE VARIETY OF *Plectranthus hilliardiae Codd.*, BEARING THE DESIGNATED DENOMINATION

P000603

FOR A PERIOD EXPIRING ON 31 DECEMBER 2029 AT THE LATEST.

THE COMMUNITY PLANT VARIETY RIGHT HAS UNIFORM EFFECT WITHIN THE TERRITORY OF THE EUROPEAN COMMUNITY AND MAY NOT BE TRANSFERRED IN RESPECT OF THIS TERRITORY OTHERWISE THAN ON SUCH UNIFORM BASIS. IT CAN BE EXERCISED AND ENJOYED BY THE HOLDER IN ACCORDANCE WITH COUNCIL REGULATION N° 2100/94 ON COMMUNITY PLANT VARIETY RIGHTS.

THIS ACKNOWLEDGEMENT DOES NOT AFFECT THE REQUIREMENT OF THE HOLDER TO PAY THE FEES DUE FOR EACH YEAR OF DURATION OF THE COMMUNITY PLANT VARIETY RIGHT.





EUROPEAN UNION  
COMMUNITY PLANT VARIETY OFFICE

**DECISION**  
(No: 14309)

The competent Committee for determining applications for the grant of Community Plant Variety Rights has decided, pursuant to article 62 of Council Regulation (EC) No 2100/94 (the Regulation), to grant such a right in relation to -

the variety: **P000603** (Application number: 2002/0379)

of species: ***Plectranthus hilliardiae Codd.***

to:  
(Applicant) **BRITS GERT JOHANNES  
28 FLAMINGO STREET  
ZA - STELLENBOSCH 7600**

Date: **22 NOVEMBER 2004**

In connection with the grant of this Community Plant Variety Right the Committee has approved, pursuant to article 63 of the Regulation, the variety denomination -

**P000603**

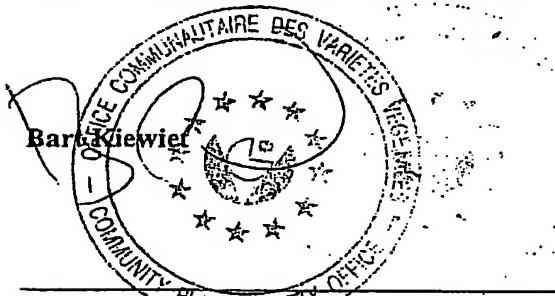
Signed:

Dirk Theobald

Martin Ekvad

José Elena

Taken under the authority of the President of the Office,



The attention of the ~~the applicant~~ is drawn to their possibility to appeal against this decision. Notice of appeal shall be filed by the applicant in writing to the attention of the Community Plant Variety Office within two months of the service of the decision.

The attention of the applicant is drawn to the possibility of an appeal against this decision by a third party to whom it is of direct and individual concern. Notice of such appeal shall be filed in writing to the attention of the Community Plant Variety Office within two months of the publication of the decision. Appeals are subject to a fee.

**UPOV-Sortenbeschreibung**  
**UPOV-Variety description**

1. **Referenznummer der berichtenden Behörde:** PLT 12  
Reference number of reporting authority:  
2. **Referenznummer der beantragenden Behörde:** 20020379  
Reference number of requesting authority:  
3. **Referenz des Züchters:** P 00 03 06  
Breeder's reference:  
4. **Antragsteller/in (Name und Adresse):** Gert Johannes Brits  
Applicant (name and address):  
28 Flamingo Street  
. Stellenbosch  
SÜDAFRIKA

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5. **Botanische Bezeichnung des Taxons:** Plectranthus-hilliardiae-Hybride  
Botanical name of taxon:  
6. **Landesübliche Bezeichnung des Taxons:** Plectranthus  
Common name of taxon:  
7. **Sortenbezeichnung:** -  
Variety denomination:  
8. **Datum und Dokumentennummer der UPOV-Prüfungsrichtlinie:**  
Date and document number of UPOV Test Guidelines:  
9. **Datum und/oder Dokumentennummer der nationalen Prüfungsrichtlinie:** Merkmalstabelle II vom 13.09.2002  
Date and/or document number of national Test Guidelines:  
10. **Prüfende Behörde:** Bundessortenamt  
Testing authority:  
11. **Prüfungsstation(en) und -ort(e):** Hannover  
Testing station(s) and place(s):  
12. **Prüfungsperiode:** 2003  
Period of testing:  
13. **Ausstellungsdatum und -ort des Dokuments:** 04.02.2004 - Hannover  
Date and place of issue of document:

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**14. Gruppe:** (wenn Merkmale der Nummer 15 für die Gruppierung verwendet werden, sind sie in der Nummer mit einem G gekennzeichnet)

Group: (if characteristics of number 15 are used for grouping they are marked with a G in that number)

**15. In den UPOV-Prüfungsrichtlinien oder den nationalen Prüfungsrichtlinien aufgeführte Merkmale:**  
Characteristics included in the UPOV Test Guidelines or national Test Guidelines:

Nat. Nr. No.	Merkmale Characteristics	Ausprägungsstufen State of Expression	Note	Bemerkungen Remarks
1	Pflanze: Haltung der Triebe Plant: attitude of shoots	aufrecht bis halbaufrecht erect to semi-erect	2	
2	<u>Nur für aufrecht bis waagerecht wachsende Sorten: Pflanze: Höhe</u> Plant height	hoch tall	7	
3	Trieb: Länge Shoot: length	lang bis sehr lang long to very long	8	
4	Trieb: Behaarung Shoot: pubescence	fehlend oder sehr gering absent or very weak	1	
5	Trieb: Anthocyanfärbung Shoot: anthocyanin colouration	fehlend absent	1	
6	Blattstiell: Farbe Petiol: colour	grün green	1	
7	Blattspreite: Länge Leaf blade: length	kurz short	3	
8	Blattspreite: Breite Leaf blade: width	schmal bis mittel narrow to medium	4	
9	Blattspreite: Form Leaf blade: shape	elliptisch elliptic	2	
10	Blattspreite: Form der Basis Leaf blade: shape of base	spitz acute	1	
11	Blattspreite: Form der Spitze Leaf blade: shape of apex	spitz acute	1	
12	Blattspreite: Randeinschnitte Leaf blade: incisions of margin	vorhanden present	9	
13	Blattspreite: Art der Randeinschnitte Leaf blade: type of incisions of margin	gesägt serrate	1	
14	Blattspreite: Farbe des Randes der Oberseite Leaf blade: colour of margin of upper side	mittelgrün middle green	3	
15	Blattspreite: Farbe der Mitte der Oberseite Leaf blade: colour of middle of upper side	mittelgrün middle green	3	
16	Blattspreite: Farbe der Adern der Oberseite Leaf blade: colour of veins of upper side	grün green	1	
17	Blattspreite: Farbe der Unterseite Leaf blade: colour of lower side	grün green	1	
18	Blattspreite: Farbe der Adern der Unterseite Leaf blade: colour of veins on lower side	purpur purple	2	
19	Kronröhre: Länge Corolla tube: length	mittel medium	5	
20	Kronröhre: Farbe der Außenseite Corolla tube: colour of outer side	violett violet	RHS 0075D	
21	Obere Lippe: Form des Querschnittes Upper lip: shape in cross section	stark konkav bis konkav strong concave to concave	2	
22	Obere Lippe: Farbe der Innenseite Upper lip: colour of inner side	violett violet	RHS 0077D	
23	Obere Lippe: Zeichnung Upper lip: marking	vorhanden present	9	
24	Obere Lippe: Art der Zeichnung Upper lip: type of marking	purpur farbene Punkte purple spots	2	
25	Untere Lippe: Farbe der Außenseite Lower lip: colour of outer side	blaurosa blue pink	RHS N074D	
26	Untere Lippe: Farbe der Innenseite Lower lip: colour of inner side	blaurosa blue pink	RHS N074D	



16. Ähnliche Sorten und Unterschiede zu diesen Sorten:  
Similar varieties and differences in relation to those varieties:

Bezeichnung der ähnlichen Sorte Denomination of similar variety	Merkmal, in dem die ähnliche Sorte unterschiedlich ist Characteristics, in which the similar variety is different	Ausprägungsstufe der ähnlichen Sorte (Note) State of expression of similar variety	Ausprägungsstufe der Kandidatensorte (Note) State of expression of the candidate variety
Edelblau (PLT 10)	20 Kronröhre: Farbe der Außenseite Corolla tube: colour of outer side	RHS 0085B-C	RHS 0075D
	22 Obere Lippe: Farbe der Innenseite Upper lip: colour of inner side	RHS 0085B-C	RHS 0077D

17. Zusätzliche Informationen:  
Additional information:

a) Zusätzliche Daten:

Additional data:

b) Bemerkungen:

Remarks:

RHS: Royal Horticultural Society Colour Chart, 2001



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